

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Jeffrey L. Pursley, Director of)	Application No.911-020/
the Nebraska Telephone)	DC-73
Infrastructure and Public Safety)	
Department of the Nebraska)	
Public Service Commission,)	
)	
Complainant,)	
v.)	COMPLAINT
)	
)	
Budget Phone, Inc. d/b/a Budget)	
PrePay; BullsEye Telecom, Inc.;)	
Excel; Ionex Communications)	
North, Inc. a/k/a Birch Telecom,)	
Inc.; MCImetro Access)	
Transmission Services, LLC; NOS)	
Communications, Inc.; Orbit.com;)	
Vartec,)	Filed: June 27, 2006
Respondents(s).)	
)	

COMES NOW, Mr. Jeffrey L. Pursley, Director of the Nebraska Telephone Infrastructure and Public Safety Department (NTIPS) of the Nebraska Public Service Commission (Commission) (hereinafter "Complainant") for Complaint against Budget Phone, Inc. d/b/a Budget PrePay; BullsEye Telecom, Inc.; Excel; Ionex Communications North, Inc. a/k/a Birch Telecom, Inc.; MCImetro Access Transmission Services, LLC; NOS Communications, Inc.; Orbit.com; Vartec, (hereinafter "Respondents") and alleges the following:

1. The Complainant is the Director of the Nebraska Telephone Infrastructure and Public Safety Department (NTIPS) of the Nebraska Public Service Commission (Commission).
2. The Respondents are service suppliers as defined by Neb. Rev. Stat. § 86-432 (Cum. Supp. 2004).
3. Jurisdiction is proper pursuant to Neb. Rev. Stat. § 86-437.

4. Pursuant to Neb. Rev. Stat. § 86-437(2), "On or before April 30 of each year, each service supplier shall report for the preceding calendar year to the Public Service Commission for each of its exchanges (a) whether 911 service or E-911 service is provided in that exchange, (b) the level of the service surcharge, (c) the location of the public safety answering point, (d) whether the governing body belongs to an interlocal agreement or other agreement with another governing body and, if so, the name of the other governing body, and (e) the amount of revenue collected by the service surcharge."
5. All Respondents were notified of the filing requirement via first class mail on January 17, 2006.
6. All Respondents were notified a second time of the filing requirement via certified mail the week of April 3, 2006.
7. The Complainant alleges that Respondents named herein
8. have violated § 86-437(2) by failing to timely file the required information by April 30, 2006.
9. The Complainant further alleges that due to the Respondents' failure, Respondents are subject to administrative fines pursuant to § 75-156 and § 86-437(5).

WHEREAS the Complainant therefore respectfully prays that the Nebraska Public Service Commission:

- a) serve the Respondents with a copy of this Complaint;
- b) enter an order fixing a time for hearing;
- c) after hearing, find the Respondents named herein guilty of the alleged violation(s);

- d) after hearing, order the Respondents to provide the required information;
- e) after hearing, levy an administrative penalty against the Respondents for each violation pursuant to §§ 75-156 and 86-437(5); and
- f) grant any other relief it deems appropriate.

Respectfully Submitted,

Jeffrey Pursley
Director
Nebraska Telephone Infrastructure
and Public Safety Department
Nebraska Public Service Commission
300 The Atrium Building
1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68509

State of Nebraska)
) ss
County of Lancaster)

VERIFICATION

Jeffrey L. Pursley, being first duly sworn on oath, deposes and says that he is the duly-appointed Director of the Nebraska Telephone Infrastructure and Public Safety Department of the Nebraska Public Service Commission; that he is the Complainant in the foregoing pleading; that he has read the allegations contained therein; and understands them to be true to the best of his knowledge and belief.

Jeffrey L. Pursley

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 2006.

Notary Public

(SEAL)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Complaint was sent by Certified United States Mail postage prepaid on _____, 2006, to the following:

Budget Phone, Inc. d/b/a Budget PrePay, 6901 West 70th Street, PO Box 19360, Shreveport, Louisiana 71149; Bullseye Telecom, Inc., 25900 Greenfield Road, Suite 330, Oak Park, Michigan, 48237; Excel, 2440 Marsh Lane, Carrollton, Texas, 75006; Ionex Communications North, Inc. a/k/a Birch Telecom, Inc., 2300 Main Street, Suite 600, Kansas City Missouri, 64108; MCImetro Access Transmission Services, LLC, 201 Spear Street, 9th Floor, San Francisco, California, 94105; NOS Communications, Inc., 4380 Boulder Highway, Las Vegas, Nevada 89121; Orbit.com, 1701 North Louise Avenue, Sioux Falls, South Dakota, 57107; Vartec, 2440 Marsh Lane, Carrollton, Texas 75006

Angela D. Melton, #21755

N O T I C E

1. Pursuant to Neb. Admin. Code, Title 291, Ch. 1, § 005.09, the Respondents are hereby notified that an answer to this complaint shall be filed and shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses that the Respondent may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint. Failure to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to assess a civil penalty as provided by law.

2. Pursuant to Neb. Rev. Stat. § 75-156, the Commission may impose an administrative penalty not to exceed ten thousand dollars (\$10,000.00) for each violation per day up to two million dollars (\$2,000,000) per violation per year.